

S. 941

IN THE SENATE OF THE UNITED STATES

Mr. DODD (for himself and Mr. KENNEDY) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

A BILL

To provide for the termination of the status of the College Construction Loan Insurance Association (“the Corporation”) as a Government Sponsored Enterprise, to require the Secretary of Education to divest himself of the Corporation’s stock, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That this Act may be cited as the “College Construction
4 Loan Insurance Association Privatization Act of 1995”.

5 FINDINGS AND PURPOSES

6 SEC. 2. (a) FINDINGS.—The Congress finds that—

1 (1) the College Construction Loan Insurance
2 Association (hereinafter referred to as “the Corpora-
3 tion”) was established by the Higher Education
4 Amendments of 1986 (Public Law 99–498) in order
5 to assist in financing the construction, reconstruc-
6 tion, renovation, acquisition, or purchase of post-
7 secondary education facilities;

8 (2) in order to attract initial investors and es-
9 tablish the Corporation as a viable corporate entity,
10 the Secretary of Education was required by statute
11 to purchase a minority equity interest in the Cor-
12 poration;

13 (3) it was the intent of Congress, in establish-
14 ing the Corporation, that the Federal Government’s
15 ownership interest in the Corporation would eventu-
16 ally terminate through the sale of the stock of the
17 Corporation owned by the Secretary of Education;

18 (4) current statutory restrictions on the Cor-
19 poration’s business activities and organization im-
20 pede the Corporation’s efforts to operate effectively
21 and to provide the services needed by educational in-
22 stitutions; and

23 (5) eliminating all statutory restrictions on the
24 Corporation’s business activities, as well as other

1 links between the Federal Government and the Cor-
2 poration, would—

3 (A) eliminate a Federal presence where the
4 operation of market forces would be more suit-
5 able and contribute toward reducing the scope
6 of Government;

7 (B) improve the ability of the Corporation
8 to provide assistance in the financing of edu-
9 cation facilities; and

10 (C) return funds to the United States
11 Treasury.

12 (b) PURPOSES.—The purposes of this Act are to—

13 (1) terminate, in an orderly manner, the Cor-
14 poration's financial and other connections to the
15 United States Government; and

16 (2) enable the Corporation to engage in any
17 business or other activities for which corporations
18 may be organized under the laws of any State of the
19 United States or the District of Columbia.

20 STATUS OF THE CORPORATION AND CORPORATE POWERS;

21 OBLIGATIONS NOT FEDERALLY GUARANTEED

22 SEC. 3. (a) STATUS OF THE CORPORATION.—The
23 Corporation shall not be an agency, instrumentality, or es-
24 tablishment of the United States Government and shall
25 not be a “Government corporation” nor a “Government
26 controlled corporation” as defined in section 103 of title

1 5, United States Code. No action under section 1491 of
2 title 28, United States Code (commonly known as the
3 Tucker Act) shall be allowable against the United States
4 based on the actions of the Corporation.

5 (b) CORPORATE POWERS.—The Corporation shall be
6 subject to the provisions of this Act, and, to the extent
7 not inconsistent with this Act, to the District of Columbia
8 Business Corporation Act (or the comparable law of an-
9 other State, if applicable). The Corporation shall have the
10 powers conferred upon a corporation by the District of Co-
11 lumbia Business Corporation Act (or such other applicable
12 State law) as from time to time in effect in order to con-
13 duct its affairs as a private, for-profit corporation and to
14 carry out its purposes and activities incidental thereto.
15 The Corporation shall have the power to enter into con-
16 tracts, to execute instruments, to incur liabilities, to pro-
17 vide products and services, and to do all things as are nec-
18 essary or incidental to the proper management of its af-
19 fairs and the efficient operation of a private, for-profit
20 business.

21 (c) NO FEDERAL GUARANTEE.—

22 (1) OBLIGATIONS INSURED BY THE CORPORA-
23 TION.—

24 (A) No obligation that is insured, guaran-
25 teed, or otherwise backed by the Corporation

1 shall be deemed to be an obligation that is
2 guaranteed by the full faith and credit of the
3 United States.

4 (B) No obligation that is insured, guaran-
5 teed, or otherwise backed by the Corporation
6 shall be deemed to be an obligation that is
7 guaranteed by the Student Loan Marketing As-
8 sociation.

9 (C) This paragraph shall not affect the de-
10 termination of whether such obligation is guar-
11 anteed for purposes of Federal income taxes.

12 (2) SECURITIES OFFERED BY THE CORPORA-
13 TION.—No debt or equity securities of the Corpora-
14 tion shall be deemed to be guaranteed by the full
15 faith and credit of the United States.

16 (d) DEFINITION.—The term “Corporation” as used
17 in this Act shall refer to the College Construction Loan
18 Insurance Association as in existence as of the day before
19 enactment of this Act, and to any successor corporation.

20 RELATED PRIVATIZATION REQUIREMENTS

21 SEC. 4. (a) NOTICE REQUIREMENTS.—

22 (1) During the six-year period following the
23 date of enactment of this Act, the Corporation shall
24 include, in each of the Corporation’s contracts for
25 the insurance, guarantee, or reinsurance of obliga-
26 tions, and in each document offering debt or equity

1 securities of the Corporation a prominent statement
2 providing notice that—

3 (A) such obligations or such securities, as
4 the case may be, are not obligations of the
5 United States, nor are they guaranteed in any
6 way by the full faith and credit of the United
7 States; and

8 (B) the Corporation is not an instrumen-
9 tality of the United States.

10 (2) During the five-year period following the
11 sale of stock pursuant to section 5(a), in addition to
12 the notice requirements in paragraph (1), the Cor-
13 poration shall include, in each of the contracts and
14 documents referred to in such paragraph, a promi-
15 nent statement providing notice that the United
16 States is not an investor in the Corporation.

17 (b) CORPORATE CHARTER.—The Corporation’s char-
18 ter shall be amended as necessary and without delay to
19 conform to the requirements of this Act.

20 (c) CORPORATE NAME.—The name of the Corpora-
21 tion, or of any direct or indirect subsidiary thereof, may
22 not contain the term “College Construction Loan Insur-
23 ance Association”, or any substantially similar variation
24 thereof.

25 (d) TRANSITIONAL REQUIREMENTS.—

1 (1) REQUIREMENTS UNTIL STOCK SALE.—Not-
2 withstanding section 6, the requirements of sections
3 754 and 760 of the Higher Education Act of 1965
4 (20 U.S.C. 1001 et seq., hereinafter referred to as
5 “the Act”), as in existence as of the day before en-
6 actment of this Act, shall continue to be effective
7 until the day immediately following the date of clos-
8 ing of the purchase of the Secretary’s stock (or the
9 date of closing of the final purchase, in the case of
10 multiple transactions) pursuant to section 5(a) of
11 this Act.

12 (2) REPORTS AFTER STOCK SALE.—The Cor-
13 poration shall, not later than March 30 of the first
14 full calendar year immediately following the sale
15 pursuant to section 5(a), and each of the two suc-
16 ceeding years, submit to the Secretary of Education
17 a report describing the Corporation’s efforts to as-
18 sist in the financing of education facilities projects,
19 including projects for elementary, secondary, and
20 postsecondary educational institution infrastructure,
21 and detailing, on a project-by-project basis, the Cor-
22 poration’s business dealings with educational institu-
23 tions that are rated by a nationally recognized sta-
24 tistical rating organization at or below the organiza-
25 tion’s third highest rating.

1 SALE OF FEDERALLY-OWNED STOCK

2 SEC. 5. (a) SALE OF STOCK REQUIRED.—The Sec-
3 retary of the Treasury shall, upon the request of the Sec-
4 retary of Education, make every appropriate effort to sell,
5 pursuant to section 324 of title 31 of the United States
6 Code, the voting common stock of the Corporation owned
7 by the Secretary of Education not later than one year
8 after the date of enactment of this Act.

9 (b) PURCHASE BY THE CORPORATION.—In the event
10 that the Secretary of the Treasury is unable to sell the
11 voting common stock, or any portion thereof, at a price
12 acceptable to the Secretary of Education and the Sec-
13 retary of the Treasury within the period specified in sub-
14 section (a), the Corporation shall purchase such stock at
15 a price determined by the Secretary of the Treasury, in
16 consultation with the Secretary of Education, based on the
17 independent appraisal of one or more nationally recog-
18 nized financial firms. Such firm or firms shall be selected
19 by the Secretary of the Treasury in consultation with the
20 Secretary of Education and the Corporation.

21 (c) REIMBURSEMENT OF COSTS OF SALE.—The Sec-
22 retary of the Treasury shall be reimbursed from the pro-
23 ceeds of the sale of the stock under this section for all
24 reasonable costs related to such sale, including all reason-

1 able expenses relating to one or more independent apprais-
2 als under this section.

3 (d) ASSISTANCE BY THE CORPORATION.—The Cor-
4 poration shall provide such assistance as the Secretary of
5 the Treasury and the Secretary of Education may require
6 to facilitate the sale of the stock under this section.

7 REPEAL OF STATUTORY RESTRICTIONS AND RELATED
8 PROVISIONS

9 SEC. 6. Part D of Title VII of the Higher Education
10 Act of 1965 (20 U.S.C. 1001 et seq.) is repealed.

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